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THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In Re the Application of :

Civil Action File No: 23-1712

Dale Harvey,

Petitioner/Plaintiff,

Petition/Complaint For the Return of  
Children

v.

Garann Rose Means

Respondent/Defendant.

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I. INTRODUCTION

1. The Petitioner/Plaintiff Dale Harvey ("Mr. Harvey" or "Petitioner") a citizen of Scotland, brings this action to secure the return of his two daughters, Z [REDACTED] U [REDACTED] H [REDACTED] -M [REDACTED] (herein after "Z") aged 5 and E [REDACTED] K [REDACTED] H [REDACTED] -M [REDACTED] (hereinafter "E") aged 4 (together "children", individually "child") who were without petitioner's consent or acquiescence, and in violation of Court orders from the Court in Scotland, United Kingdom ("U.K"), wrongfully removed from Scotland, and brought to the Western District of Washington by the children's mother, Respondent/Defendant Garann Rose Means ("Ms. Means" or "Respondent")

Petition/Complaint

Page 1

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4 2. This Petition is filed pursuant to the 1980 Convention on the Civil Aspects of International Child  
6 Abduction (the Hague Convention or the Convention) and the International child Abduction  
8 Remedies Act ("ICARA"). A copy of the Hague Convention is attached as **Exhibit A**. The Hague  
10 Convention came into effect in the United States of America on July 1, 1988, and has been ratified  
12 between, among other contracting states, United States of America and United Kingdom (Scotland  
14 being part of the United Kingdom), see **EXHIBIT B**, (the last page containing RESERVATIONS  
NOTIFICATIONS from USA and UK).

16 3. The objects of the Hague convention are:

18 Article 1(a): To secure the prompt return of children wrongfully removed to or retained in any  
20 Contracting State; and

22 Article 1(b) To ensure that rights of custody and access under the law of one Contracting State are  
24 effectively respected in other Contracting States

26 4. The Hague Convention authorizes a federal district court to determine the merits of a claim for  
28 the wrongful removal or retention of a child. It does not, however, permit the district court to  
consider the merits of any underlying custody dispute, see Article 16.

## 30 II. JURISDICTION AND VENUE

32 5. This Court has jurisdiction over this case pursuant to 42 U.S.C. section 11603(a) (jurisdiction  
34 under the Hague Convention) and 28 U.S.C section 1331 (federal question jurisdiction).

36 Venue is proper pursuant to 42 U.S.C. section 11603 and 28 U.S.C. section 1391(b) because  
38 Petitioner believes that the Respondent is most likely residing with the children at or near her  
40 mother's residence in Seattle. The mother's address is: at 8844, 18<sup>th</sup> Southwest Avenue,  
42 Southwest, Seattle, Washington. It is possible, although it presently appears unlikely to the  
44 Petitioner, that she may be living in Bow, WA, with her father.

### III. STATEMENT OF FACTS

6. The Petitioner and the Respondent are both the parents of the children. The Petitioner and  
8 Respondent are separated and in the process of a divorce action which commenced on or about 28<sup>th</sup>  
10 April 2023 when Respondent served Petitioner.

14 7. At all times during the lives of the children, the parents have resided with the children in  
16 Glasgow, Scotland, either together or, since separation, in separate dwellings.

18 8. Since about 11<sup>th</sup> February 2020 (before the divorce action) the parents have been in litigation in  
20 family court in Scotland concerning custody, parenting, location of schools, and access to the  
22 children.

24 9. In 2017 Z was born in Glasgow Scotland. A copy of the birth certificate is attached as Exhibit C  
26 to the Declaration of Dale Harvey filed herewith.

28 10. In 2019 E was born in Glasgow Scotland. A copy of the birth certificate is also Exhibit C to the  
30 Declaration of Dale Harvey, filed herewith.

32 11. At all times during the lives of the children (until the time of the abduction of the children by  
34 Respondent which is the subject of this Petition), the parents have resided with the children in  
36 Glasgow, Scotland.

38 12. The children attended daycare/nursery (E [REDACTED]) and school (Z [REDACTED]) in Glasgow Scotland at  
40 the time of their wrongful taking by the Respondent.

42 13. At all times during the children's lives the petitioner has continued to exercise his parental  
44 rights and maintained his relationship with the children. After the abduction by the Respondent, the  
46 Petitioner still tries to exercise said rights and relationship but is prevented by the abduction and  
48 Respondent's denial of access to the children from doing so. A copy of emails between  
50 Respondent and Petitioner are attached to the Declaration of Dale Harvey filed herewith,  
EXHIBIT M and 1.

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4 14. In February 2020 the Respondent sought a residence order and permission to relocate with the  
6 children to Seattle, from the court in Glasgow, Scotland. Judgement was issued on 12<sup>th</sup> August  
8 2022, EXHIBIT C to the declaration of Karen Gailey filed herewith. Relocation was refused and  
10 the Petitioner and Respondent were awarded a joint residence order (50/50 residential time). This  
12 was followed by a further order of 13<sup>th</sup> September, 2022, EXHIBIT I to the said declaration of  
14 Karen Gailey. Interdict against Respondent was granted prohibiting Respondent from removing the  
16 children from stated school and nursery in Glasgow Scotland without the express consent of the  
18 father varying the August 12, 2022 “residence order” to accommodate holidays and vacations .  
20 “Otherwise the usual pattern of contact will operate in accordance with the sheriff’s judgment of  
22 12 August 2022”. Respondent appealed said orders to the Sheriff appeal court in Glasgow  
Scotland. Her appeal was refused, see appeal order, EXHIBIT K to the declaration of Karen Gailey  
filed herewith.

24 15. The children were wrongfully removed from Scotland sometime between September 29<sup>th</sup> and  
26 4<sup>th</sup> October 2023. The children were due to return to Petitioner when the school and nursery  
28 finished at 3pm on 4<sup>th</sup> October, 2023. However, on Wednesday the 4<sup>th</sup> October, 2023 Respondent  
30 had kept the children out of school and nursery since October 2<sup>nd</sup>. Her explanation was that the  
children were ill.

32 16. At about 7:30 am on October 4<sup>th</sup> , 2023 Petitioner received an email from Respondent stating  
34 that he would not be able to collect the children that day. When the petitioner spoke to Respondent  
36 by telephone she told him that she had taken the children to Seattle.

38 17. Respondent has made it clear in her telephone contact with Petitioner, her emails and online  
40 (LINKED IN) presence that, despite the various orders of the Scottish Court in relation to the  
42 children, she intends to remain with the children in Seattle.

44 18. At the time of Respondent’s said departure from Scotland and wrongful removal of the  
46 children, numerous court hearings were scheduled in the litigation between the Respondent and  
Petitioner to take in the Scottish court.

48 19. Petitioner has never consented or acquiesced in the removal of the children’s residence from  
50 Scotland, the children’s habitual residence.

Petition/Complaint

Page 4

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4 20. Petitioner's Request for Return for the Children was submitted to the United States Department  
6 of State through the Scottish Central Authority in the United Kingdom (UK). A copy of the  
8 Petitioner's Requests for Return, are exhibited as EXHIBIT A and B to the declaration of Dale  
10 Harvey, submitted herewith. Accompanying documents delivered to the Department of State, are  
12 listed by Dale Harvey in his said declaration where he references them as exhibits to his  
declaration and the declaration of Karen Gailey, also filed herewith.

14 21. The Scottish Central Authority (Scotland being part of the United Kingdom) contacted the  
16 USA Central Authority (Department of State) which offers advice to the left behind parent. The  
18 USA Central Authority has offered assistance to find the children but to date has only found a  
20 mailing address for respondent (being that of her mother in Seattle). See copy of emails between  
the Central Authority to Petitioner's attorney EXHIBIT Z to the declaration of Dale Harvey.  
22 Petitioner has asked the Respondent by email where the children are but has not received an  
answer See EXHIBIT 1 to the said of Dale Harvey.  
24

26 22. Petitioner has done all that he can to seek the return of his children to Scotland, their habitual  
28 residence.

30 23. The Respondent has mental health issues. She has experienced suicidal ideation in the past and  
32 after the said abduction of the children she sent an email to the petitioner stating that if she had not  
been able to come to Seattle, she would have committed suicide. EXHIBIT M page 10 to the  
34 declaration of Dale Harvey. The Petitioner and his Scottish attorney Karen Gailey, have concerns  
36 over the welfare of the children especially if Respondent feels desperate. Their declarations are  
38 submitted herewith for consideration on this mental health issue and other issues involved in this  
Return request to this court.  
40

42 24. The Respondent has a history of litigious behavior and an unwillingness to accept orders of the  
court in Scotland. Her removal of the children from Scotland is in direct violation Scottish orders.  
44 See declaration of Petitioner's Scottish attorney Karen Gailey.  
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48 **IV. WRONGFUL REMOVAL AND RETENTION OF CHILDREN BY RESPONDENT:**  
50 **CLAIM FOR RELIEF UNDER THE HAGUE CONVENTION**

Petition/Complaint

Page 5

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4 25. As set forth above, on or about September 29<sup>th</sup> to October 4<sup>th</sup> 2023 Respondent wrongfully  
6 removed the children within the meaning of Article 3 of the Convention and continues to  
8 wrongfully retain the children in the State of Washington, United States in violation of Article 3.  
10 The petitioner wants to have his children returned to Scotland which was their habitual residence  
and the time of the wrongful removal and remains so.

12 26. Petitioner has never acquiesced or consented to the removal of the children from Scotland to  
14 the United States.

16 27. The Respondent's removal of the children from Scotland is in direct violation of the orders of  
18 the court in Scotland referenced above.

20 28. Respondent's removal and retention of the children is wrongful within the meaning of Article 3  
22 of the Convention because:

24 (a) It is in violation of petitioner's rights of custody as established by Scottish law. See the  
26 declaration of Scottish attorney Karen Gailey submitted herewith. Specifically, Respondent's  
28 removal and retention of the children is in violation of Petitioner's right as a physical custodian to  
30 determine the children's place of residence. See Hague Convention , Art. 5(a) (defining "rights of  
32 custody" under Article 3 to include "in particular, the right to determine the child's place of  
34 residence"); the wrongful removal is also in direct violation of the afore stated orders of the  
36 Scottish court denying Respondent's request to relocate the children's residence from Scotland to  
38 Seattle and in violation of orders relating to the location of the children's school/nursery in  
Scotland and pick up and drop off times and locations in Scotland. See the declaration of Scottish  
attorney Karen Gailey submitted herewith.

40 (b) At the time of the children's removal from Scotland, petitioner was actually exercising his  
42 rights of custody within the meaning of Articles 3 and 5 of the Convention and, but for  
44 Respondent's removal and retention of the children, petitioner would have continued to exercise  
those rights;

46 (c ) The children were habitually resident with Petitioner in Scotland within the meaning of Article  
48 3 of the Convention immediately before the removal and retention by Respondent.

50 Petition/Complaint

Page 6

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4 29. Respondent is presently wrongfully retaining the children in the State of Washington, United  
6 States of America.  
10

8 30. It is believed by Petitioner that the Respondent is very likely keeping the children either at her  
10 mother's residence or nearby to her residence in Seattle. It is currently believed by petitioner that it  
12 is less likely that they children are being kept by Respondent at her father's residence in Bow,  
Washington.

14 31. The children are now 5 and 4 years old. The Hague Convention applies to children under  
16 sixteen years of age (16 and thus applies to both children. )

18 32. This petition is filed less than one year from Respondent's wrongful removal of the children.  
20 Petitioner has never consented or acquiesced to respondent's wrongful removal or retention of the  
22 children.

24 **V. NOTICE OF HEARING AND PROVISIONAL REMEDIES**

26 **(42 U.S.C. 11603 (c))**

28 33. Pursuant to 42 U.S.C. section 11603(c) respondent shall be given notice of these proceedings  
30 in accordance with the laws governing notice in interstate child custody proceedings.

32 **VI. PROVISIONAL REMEDIES**

34 **(42 U.S.C. Section 11604 and Hague Convention, Article 2 and 7; Fed R. Civ. P. 65  
36 and LCR 65)**

40 34. Petitioner requests that this Court issue an immediate order restraining Respondent and her  
42 father and mother from acting in concert with her from removing the children from the jurisdiction  
44 of this Court, and a warrant seeking immediate custody of the children, directing any United States  
46 Marshal or other law enforcement officer to locate and take physical custody of the children and  
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4 transfer to the temporary custody of the Petitioner pending final decision on the merits of this  
6 Petition/Complaint and other evidence before the Court, and directing said marshal/officer to bring  
8 the respondent to this Court for the next scheduled hearing and serve respondent with all of  
10 Petitioner's filings in this Court and any Court order. Petitioner also asks this Court to schedule an  
12 expedited hearing on the merits of this Petition. Petitioner requests that this immediate restraining  
14 order be issued ex parte without notice to respondent to prevent immediate and irreparable injury  
16 loss or damage to the children and Petitioner.

18 35. Petitioner's EX PARTE MOTION UNDER 1980 HAGUE CONVENTION FOR TRO,  
20 WARRANT SEEKING PHYSICAL CUSTODY OF CHILDREN AND SCHEDULING  
22 EXPEDITED HEARING AND OTHER RELIEF, together with supporting brief and proposed  
24 order is filed with this Petition and incorporated herein as if fully set out herein.  
26

28 **VI. ATTORNEYS FEES AND COSTS**

30 **(42 U.S.C. 11607)**

32 36. To date the petitioner has incurred attorney fees and costs as a result of the wrongful removal  
34 and retention of the children by Respondent.

36 Petitioner respectfully requests that this Court award him all costs and fees and transportation costs  
38 and lodging costs, incurred as required by 42 U.S.C. Section 11607

40  
42 **VIII. RELIEF REQUESTED**

44 **37. Wherefore** the petitioner prays for the following relief:

46 (a) An immediate temporary restraining order prohibiting the removal of the children from the  
48 jurisdiction of this Court pending a final hearing on the merits of this Petition and further  
50 providing that no person acting in concert or participating with Respondent shall take any

action to remove the children from the jurisdiction of this Court pending a determination on the merits of the Petition.

- (b) To protect the children from potential harm from the Respondent, a warrant seeking immediate physical control of the children, directing any United States Marshal or other law enforcement officer to locate the children and deliver them to the physical custody of the petitioner pending a final determination on the merits of the Petition.
- (c) An order that the said Marshal or other law enforcement officer serve copies of all documents filed in this action upon the Respondent and shall, at the earliest opportunity, file a declaration of service in this Court.
- (d) The scheduling of an expedited preliminary injunction hearing; and an order that Respondent show cause why the provisional pretrial relief requested by petitioner in ex parte hearing should not continue to a final hearing/trial ; and order that trial of the action on the merits be accelerated with an accelerated case schedule to comply with the expeditious proceedings requirement of Article 11 of the Hague Convention.
- (e) A final judgment in Petitioner's favor establishing that the children shall be returned to Scotland where the Scottish courts have jurisdiction over the children.
- (f) An order requiring respondent pay Petitioner's expenses and costs, including, not limited to transportation costs, and hotel/motel costs, attorney fees and costs under 42 U.S.C section 11607, such expenses and costs to be resolved via a post-judgment motion, consistent with the procedure outlined under Local rule 54 (d).
- (g) For any such relief as may be deemed just and appropriate under the circumstances of the case.

Dated this 7 day of November, 2023

FLEXX LAW, PS



Marguerite C. Smith WSBA# 16438

Attorney for Petitioner

Petition/Complaint

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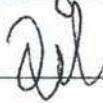
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8 I declare under penalty of perjury under the laws of the State of Washington that the foregoing facts  
10 are true and correct. Signed this 6th day of November 2023 at Seattle (city)  
12 Washington, USA Country.

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Dale Harvey



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Petition/Complaint

Page 10

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